

# TERMS AND CONDITIONS

## NORTHERN TROUT

(EDITION Oct. 2014)

### 1. In these terms and conditions the following expressions shall bear the following meanings: -

- (i) "the Company" shall mean Brow Well Fisheries Ltd trading as "NORTHERN TROUT" and/or any company which is for the time being a subsidiary of the aforementioned Company within the meaning of Section 796 of the Companies Act 1985 or any statutory re-enactment or modification thereof for the time being in force.
- (ii) "the Goods" shall mean any product including live fish, fish eggs (or any sundry equipment or foodstuffs) sold or supplied by the Company to the Customer
- (iii) "the Customer" shall mean the person firm or company placing the order for goods with the Company whether orally or in writing. The Customer contracts with the Company as principal whether or not the Customer turns contracts as agent on behalf of its own client or customer.

### 2. Title to the Goods

Until the Customer makes payment in full to the Company for the Goods then: -

- (i) The Goods shall remain the property of the Company but the risk therein and all liabilities to third parties in respect thereof hereinafter called "the risk and liabilities" shall pass to the Customer on delivery if the Company makes delivery. If however, a carrier or other third party makes delivery, the risk and liability passes to the Customer on delivery to or collection by the carrier or other third party and if the Customer himself collects the Goods, the risk and liability passes at the time of such collection.
- (ii) The Customer may sell the Goods in the normal course of its business but it shall hold and pursue claims for the proceeds of their sale equal to the price of the Goods for and on behalf of the Company.
- (iii) If the Customer shall become insolvent or bankrupt or make any composition or arrangement with creditors or being a company shall have a receiver appointed or enter into liquidation whether voluntarily or compulsorily or if any execution or distress shall be levied against the Customer's goods then the Company shall have the right to recover possession of the Goods the property in which has been retained under this clause and the Company or its duly authorised representatives shall have the right to enter the premises where the Goods are kept for this purpose.
- (iv) Delivery by the Company shall take place when the Goods are delivered by the Company to the enclosure or other such place specified by the Customer and agreed by the Company prior to delivery.
- (v) Until such time as title to the Goods passes to the Customer, the Customer shall store the Goods separate and distinct from goods belonging to the Customer and from such goods supplied or owned by persons other than the Company, in such a way that makes them readily and clearly identifiable as the Goods of the Company.

### 3. Prices and Payment

- (i) The Customer is liable to pay the Company's charges for the Goods at the rate previously negotiated or otherwise that prevailing from time to time in the Company's current price list. All prices quoted by the Company are subject to the addition of Value Added Tax and other excise, tax, impost or duty at the rate prevailing at the time of supply of the Goods.
- (ii) Prices shown in any price lists are subject to alteration by the Company without prior notice.
- (iii) In the absence of an alternative payment arrangement between the Company and the Customer, **the Company's invoices are due for payment 30 days after receipt of the goods ("the due date")**.
- (iv) **Any invoices outstanding at the due date will be subject to an interest charge of 10%**. Failure to raise an invoice in respect of interest shall not be deemed to constitute a waiver of the Company's right to recover the same.

### 4. The Company's Obligations

- (i) Any delay in or failure by the Company of any of its obligations shall not constitute default or give rise to any claim for damages.
- (ii) If the Customer fails to make any payment to the Company on the due date as hereinbefore defined or has a receiver appointed or a winding up is commenced or the buyer (being an individual) has a receiving order made against him or enters into any composition or arrangement with his creditors (or if there shall be any breach by the Customer of any of these conditions) the Company may cancel or refuse to make any further delivery of Goods without prejudice to any remedy which the Company may have under these conditions.
- (iii) Any time quoted for delivery is an estimate only and the Company will not be liable for any losses or damages arising as a result of late or non-delivery
- (iv) Without prejudice to the generality of the foregoing, the Company will use its best endeavours to fulfil its obligations regarding the supply and delivery of the Goods and its other obligations hereinunder but shall nonetheless have the right to cancel delivery or to reduce the amount delivered or agreed to be due to circumstances beyond the control of the Company including (but not limited to) disease drought pollution and the failure of egg supplies.
- (v) Without prejudice to the generality of the foregoing in no circumstances whatsoever is the Company liable for consequential loss (including loss of profits)
- (vi) Within 7 days of delivery the Customer shall notify the Company in writing of any short delivery in a consignment of or damage to the Goods or any alleged defect in such Goods. In such an event the Company may at its option consider such claims and make good the shortfall but only if the Customer complies with this condition.

- (vii) Without prejudice to the generality of the foregoing, the Company undertakes that it will take all reasonable and normal steps to ensure that the Goods are free from any contamination but so long as it has complied with its obligation in the clause, it shall not be liable to the Customer in the event that all or any of the Goods are found to be subject to contamination and in the event that contamination does occur or has occurred the Company shall not be liable to the Customer in any way. In the clause the word "contamination" shall include, but not be limited to, disease, unfitness for rearing or resale or consumption.

#### **5. Jurisdiction**

These conditions are made and shall be construed in accordance with the Laws of England and either with the Keighley District Registry of the High Court or at the Company's election and if the claim is within the monetary competence of the Skipton County Court shall be conclusively deemed to have jurisdiction. Any proceedings commenced by the Company pursuant to the provisions of these terms and conditions shall not without the agreement in writing of the Company or its Solicitors be subject to the Customer's local or any other Court, and the parties hereto irrevocably submit themselves to the Courts granted jurisdiction by this clause.

#### **6. Application of Terms**

- (i) Previous dealing between the Company and the Customer shall not vary or add to or replace these terms or any of them.
- (ii) Acceptance of Goods from the Company shall be conclusive evidence before any Court that these terms alone apply to the supply by the Company of the Goods.

#### **7. General**

Any service performed by the Company for the Customer shall be subject to the condition set out above and no variation of these conditions shall be valid unless in writing and signed by a duly authorised officer of the Company.